

## § 34.18

the Defense Federal Acquisition Regulation Supplement, or DFARS, respectively).

(2) The supplemental information on allowability of audit costs, in § 34.16(f).

(b) *Other types of organizations.* Allowability of costs incurred by other types of organizations that may be subrecipients under a prime award to a for-profit organization is determined as follows:

(1) *Institutions of higher education.* Allowability is determined in accordance with OMB Circular A-21,<sup>3</sup> “Cost Principles for Educational Institutions.”

(2) *Other nonprofit organizations.* Allowability is determined in accordance with OMB Circular A-122,<sup>4</sup> “Cost Principles for Non-Profit Organizations.” Note that Attachment C of the Circular identifies selected nonprofit organizations for whom cost allowability is determined in accordance with the FAR cost principles for for-profit organizations.

(3) *Hospitals.* Allowability is determined in accordance with the provisions of 45 CFR part 74, Appendix E, “Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.”

(4) *Governmental organizations.* Allowability for State, local, or federally recognized Indian tribal governments is determined in accordance with OMB Circular A-87,<sup>5</sup> “Cost Principles for State and Local Governments.”

## § 34.18 Fee and profit.

In accordance with 32 CFR 22.205(b), grants and cooperative agreements shall not:

(a) Provide for the payment of fee or profit to the recipient.

(b) Be used to carry out programs where fee or profit is necessary to achieving program objectives.

<sup>3</sup>For copies of the Circular, contact the Office of Management and Budget, EOP Publications, 725 17th St. N.W., New Executive Office Building, Washington, D.C. 20503.

<sup>4</sup>See footnote 3 to paragraph (b)(1) of this section.

<sup>5</sup>See footnote 3 to paragraph (b)(1) of this section.

## 32 CFR Ch. I (7-1-06 Edition)

### PROPERTY STANDARDS

#### § 34.20 Purpose of property standards.

Sections 34.21 through 34.25 set forth uniform standards for management, use, and disposition of property. DoD Components shall encourage recipients to use existing property-management systems, to the extent that the systems meet these minimum requirements.

#### § 34.21 Real property and equipment.

(a) *Prior approval for acquisition with Federal funds.* Recipients may purchase real property or equipment in whole or in part with Federal funds under an award only with the prior approval of the grants officer.

(b) *Title.* Title to such real property or equipment shall vest in the recipient upon acquisition. Unless a statute specifically authorizes a DoD Component to vest title in the recipient without further obligation to the Government, and the DoD Component elects to do so, the title shall be a conditional title. Title shall vest in the recipient subject to the conditions that the recipient:

(1) Use the real property or equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.

(2) Not encumber the property without approval of the grants officer.

(3) Use and dispose of the property in accordance with paragraphs (d) and (e) of this section.

(c) *Federal interest in real property or equipment offered as cost-share.* A recipient may offer the full value of real property or equipment that is purchased with recipient's funds or that is donated by a third party to meet a portion of any required cost sharing or matching, subject to the prior approval requirement in § 34.13(a)(7). If a recipient does so, the Government has a financial interest in the property, a share of the property value attributable to the Federal participation in the project. The property therefore shall be considered as if it had been acquired in part with Federal funds, and shall be subject to the provisions of paragraphs (b)(1), (b)(2) and (b)(3) of

this section, and to the provisions of § 34.23.

(d) *Use.* If real property or equipment is acquired in whole or in part with Federal funds under an award, and the award provides that title vests conditionally in the recipient, the real property or equipment is subject to the following:

(1) During the time that the real property or equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs, if such other use will not interfere with the work on the project or program for which the real property or equipment was originally acquired. Use of the real property or equipment on other projects will be in the following order of priority:

(i) Activities sponsored by DoD Components' grants, cooperative agreements, or other assistance awards;

(ii) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(iii) Activities under Federal procurement contracts, or activities not sponsored by any Federal agency. If so used, use charges shall be assessed to those activities. For real property or equipment, the use charges shall be at rates equivalent to those for which comparable real property or equipment may be leased. The use charges shall be treated as program income.

(2) After Federal funding for the project ceases, or when the real property or equipment is no longer needed for the purposes of the project, the recipient may use the real property or equipment for other projects, insofar as:

(i) There are Federally sponsored projects for which the real property or equipment may be used. If the only use for the real property or equipment is for projects that have no Federal sponsorship, the recipient shall proceed with disposition of the real property or equipment, in accordance with paragraph (e) of this section.

(ii) The recipient obtains written approval from the grants officer to do so. The grants officer shall ensure that there is a formal change of accountability for the real property or equip-

ment to a currently funded, Federal award.

(iii) The recipient's use of the real property or equipment for other projects is in the same order of priority as described in paragraph (d)(1) of this section.

(e) *Disposition.* (1) When an item of real property or equipment is no longer needed for Federally sponsored projects, the recipient shall proceed as follows:

(i) If the property that is no longer needed is equipment (rather than real property), the recipient may wish to replace it with an item that is needed currently for the project. In that case, the recipient may use the original equipment as trade-in or sell it and use the proceeds to offset the costs of the replacement equipment, subject to the approval of the responsible agency (i.e., the DoD Component or the Federal agency to which the DoD Component delegated responsibility for administering the equipment).

(ii) The recipient may elect to retain title, without further obligation to the Federal Government, by compensating the Federal Government for that percentage of the current fair market value of the real property or equipment that is attributable to the Federal participation in the project.

(iii) If the recipient does not elect to retain title to real property or equipment (see paragraph (e)(1)(ii) of this section), or request approval to use equipment as trade-in or offset for replacement equipment (see paragraph (e)(1)(i) of this section), the recipient shall request disposition instructions from the responsible agency.

(2) If a recipient requests disposition instructions, in accordance with paragraph (e)(1)(iii) of this section, the responsible grants officer shall:

(i) For equipment (but not real property), consult with the Federal program manager and judge whether the age and nature of the equipment warrant a screening procedure, to determine whether the equipment is useful to a DoD Component or other Federal agency. If a screening procedure is warranted, the responsible agency shall determine whether the equipment can be used to meet a DoD Component's requirement. If no DoD requirement is

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found, the responsible agency shall report the availability of the equipment to the General Services Administration, to determine whether a requirement for the equipment exists in other Federal agencies.

(ii) For either real property or equipment, issue instructions to the recipient for disposition of the property no later than 120 calendar days after the recipient's request. The grants officer's options for disposition are to direct the recipient to:

(A) Transfer title to the real property or equipment to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the real property or equipment, plus any reasonable shipping or interim storage costs incurred. If title is transferred to the Federal Government, it shall be subject thereafter to provisions for Federally owned property in § 34.22.

(B) Sell the real property or equipment and pay the Federal Government for that percentage of the current fair market value of the property that is attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sale proceeds). When the recipient is authorized or required to sell the real property or equipment, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) If the responsible agency fails to issue disposition instructions within 120 calendar days of the recipient's request, as described in paragraph (e)(2)(ii) of this section, the recipient shall dispose of the real property or equipment through the option described in paragraph (e)(2)(ii)(B) of this section.

### § 34.22 Federally owned property.

(a) *Annual inventory.* Recipients shall submit annually an inventory listing of all Federally owned property in their custody (property furnished by the Federal Government, rather than acquired by the recipient with Federal funds under the award), to the DoD

Component or other Federal agency responsible for administering the property under the award.

(b) *Use on other activities.* (1) Use of federally owned property on other activities is permissible, if authorized by the DoD Component responsible for administering the award to which the property currently is charged.

(2) Use on other activities will be in the following order of priority:

(i) Activities sponsored by DoD Components' grants, cooperative agreements, or other assistance awards;

(ii) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(iii) Activities under Federal procurement contracts, or activities not sponsored by any Federal agency. If so used, use charges shall be assessed to those activities. For real property or equipment, the use charges shall be at rates equivalent to those for which comparable real property or equipment may be leased. The use charges shall be treated as program income.

(c) *Disposition of property.* Upon completion of the award, the recipient shall report the property to the responsible agency. The agency may:

(1) Use the property to meet another Federal Government need (e.g., by transferring accountability for the property to another Federal award to the same recipient, or by directing the recipient to transfer the property to a Federal agency that needs the property, or to another recipient with a currently funded award).

(2) Declare the property to be excess property and either:

(i) Report the property to the General Services Administration, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)), as implemented by General Services Administration regulations at 41 CFR 101–47.202; or

(ii) Dispose of the property by alternative methods, if there is statutory authority to do so (e.g., DoD Components are authorized by 15 U.S.C. 3710(i), the Federal Technology Transfer Act, to donate research equipment to educational and nonprofit organizations for the conduct of technical and